

**BOARD OF REGISTRATION IN PHARMACY
MEETING MINUTES
TUESDAY SEPTEMBER 18, 2007
239 CAUSEWAY STREET
SECOND FLOOR, ROOM 206
BOSTON, MA 02114**

Present: James DeVita, R.Ph., George Cayer, R.Ph., Marilyn Barron, MSW, Public Member, William Gouveia, R.Ph., Steven Budish, Public Member, Kathy Fabiszewski, N.P., Donald Accetta, M.D., Joel Berman, R.Ph., Michael Tocco, R.Ph.

Absent: Karen Ryle, R.Ph., Sophia Pasedis, R.Ph., Pharm.D.

Staff: James D. Coffey, R.Ph., Director, Leo McKenna, R.Ph., Pharm.D., CQI Surveyor, Susan Manning, Board Counsel, Carolyn Reid, Admin. Asst., Sam Penta, R.Ph., Investigative Supervisor, James Emery, C.Ph.T., Investigator

1. 8:30 a.m. - Pres. DeVita called meeting to order.
2. 8:35 a.m. - Review of Board Minutes
Motion/Cayer to approve July 10, 2007 minutes. Second/Barron.
All in favor.
3. 8:40 a.m. - Pharmacy/ Pharmacy Dept. Applications

Relocation

Walgreens Pharmacy #03605, 40 Broadway, Taunton
TO 5 Tremont Street, Taunton

Change of Manager

Rite Aid Pharmacy# 10106, Sudbury (Pharmacy Reg. No. 3147)
Rite Aid Pharmacy#10099, Ashland (Pharmacy Reg. No. 3301)

CVS Pharmacy #669, Swampscott (Pharmacy Reg. No. 2846)
CVS Pharmacy #1050, Holden (Pharmacy Reg. No. 1697)
CVS Pharmacy #166, Worcester (Pharmacy Reg. No. 3449)
CVS Pharmacy #240, Cambridge (Pharmacy Reg. No. 5551)
CVS Pharmacy #859, Agawam (Pharmacy Reg. No. 1343)
(DeVita recused from all CVS above)

Walgreens Pharmacy #6470, Weymouth (Pharmacy Reg. No. 3167)
Walgreens Pharmacy #2669, Waltham (Pharmacy Reg. No. 2152)
Walgreens Pharmacy #3758, Brockton (Pharmacy Reg. No. 2758)
Walgreens Pharmacy #10209, North Andover (Pharmacy Reg. No. 3529)
Wal-Mart 10-5278, Chicopee (Pharmacy Reg. No. 3351)

New Pharmacy/Pharmacy Department

Walgreens Pharmacy #10802 - proposed: 328 Rhode Island Ave., Fall River, MA 02721-2330

Walgreens Pharmacy #10401 – proposed: 220 Grafton St., Worcester, MA 01604-4906

CVS Pharmacy #1306 – proposed: 220 Maple St., Middleton, MA 01949 (DeVita recused)

Victory Distributors, Inc. DBA Hannaford Food & Drug – proposed: 158 N. Main Street, Uxbridge, MA 01569

Renovation / Expansion

CVS/pharmacy, 68 Main Street, Andover (Pharmacy Reg. No. 2019) (DeVita recused)

Closing

Congdon's Pharmacy, 47 Main Street, Nantucket, MA (147 years of business) (Pharmacy Reg. No. 1056); transfer of business records and inventory to Nantucket Pharmacy, 45 Main Street, Nantucket, MA (Pharmacy Reg. No. 10324)

Motion/Cayer to approve above all applications (with DeVita recusals as noted), subject to compliant inspections and other noted conditions.
Second/Gouveia. All in favor.

4. 8:50 a.m. - Updates
Dir. James D. (JD) Coffey

Staffing

Pharmacy Renewals

Direct Processing

Reciprocity: NABP / MA Board / PCS (application vendor)→ October 1st start

5. 9:00 a.m. - Office of Investigations
File Review – Investigators Penta and Emery

1	PH-07-092	Refer to Legal
2	PH-07-060	Investigative Conference
3	PH-07-059	Investigative Conference

6. 9:30 a.m. - New Pharmacy Application

Pearl Street Pharmacy Inc. – proposed: 1 Pearl Street, Brockton, MA 02301

Present: Brigida Panetta, R.Ph., MOR, Rocky Tenaglia, R.Ph., Owner

CEs: compliant

Motion/Berman to approve application. Second/Tocco.

In Favor: DeVita, Barron, Gouveia, Budish, Fabiszewski, Accetta, Berman, Tocco. Opposed: Cayer. Application approved pending compliant inspection.

7. 10:00 a.m. - Investigative Conference

In the matters of CVS/pharmacy, 264 E. Main St. Marlboro, MA 01752 (Pharmacy Reg. No. 17722), Docket Nos. DS-07-055 and DS-08-009

Paula A. Flynn, R.Ph. (Pharmacist Reg. No. 25064) – Docket No. PH-07-127 and Maya Patel, R.Ph. (Pharmacist Reg.No. 22226) – Docket No. PH-08-005 and Fabiola Guzman. SA-DS-08-005

Complaint alleged that on or about March 14, 2007, Registrant Flynn dispensed Lamictal 100mg rather than Labetolol 100mg as prescribed while employed at CVS/Pharmacy, 264 E. Main St., Marlboro, MA. In addition, the Pharmacy allegedly employed Fabiola Guzman to perform pharmacy technician duties for hours in excess of the maximum permitted by 247 CMR 8.03(3). The pharmacy was allegedly non-compliant with regard to required supervisory ratio per 247 CMR 8.06(3) during a July 24, 2007 Board visit.

Recused - DeVita (exited meeting room)

Present: Maya Patel, R.Ph.; Paula A. Flynn, R.Ph.; Adina Muler, R.Ph., Pharmacy Supervisor; Fabiola Guzman; William Irvin, Dir., Corporate Compliance; Christee T. Good, Esq.

Guzman performed the data entry on the prescription. She may have ordered wrong medication from list of drugs on computer screen beginning with "la". Flynn described her typical verification process but did not recall whether she checked the pill image on the computer screen. She did not how she did not catch the error on final verification. Guzman is now employed in front store and has not been performing technician duties since Board notified MOR Patel of unregistered status on June 15, 2007. Board discussed workplace conditions with Registrants Flynn and Patel, including distractions and interruptions related to drive thru, telephone, general noise and high volume operation. MOR Patel stated she expected to be advised by the corporate "tech trainer" regarding registration status of pharmacy personnel and that she had no ability to independently check hours employed or examination status of any pharmacy personnel. In response to Board inquiry, current Pharmacy Supervisor Muler stated she now "drills

further" into EVRs (Every Visit Review monthly store review) and has regular meetings with the "tech trainer". MOR Patel acknowledged that she is ultimately responsible for all operations of the pharmacy. Bill Irvin, R.Ph. described a CVS/pharmacy pilot program underway in Rhode Island that monitors registration status; expected to be implemented corporate wide in near future.

Motion/Berman to take under advisement. Second/Accetta. All in favor.

8. 10:45 a.m. - Report of Office of General Counsel
Pending legal matters - Board Counsel Susan Manning

10:45 a.m. - Motion/Cayer to enter into Closed Session (G.L. c. 112, s. 65C and G.L. c. 30A, s. 11A). Second/Pasedis. All in favor.

10:55 a.m. - Motion/Pasedis to exit Closed Session. Second/Berman. All in favor.

Continuation of discussion of the matters of CVS/pharmacy, 264 E. Main St. Marlboro, MA 01752 (Pharmacy Reg. No. 17722), Docket Nos. DS-07-055 and DS-08-009; Paula A. Flynn, R.Ph. (Pharmacist Reg. No. 25064) - Docket No. PH-07-127 and Maya Patel, R.Ph. (Pharmacist Reg. No. 22226) - Docket No. PH-08-005 and Fabiola Guzman. SA-DS-08-005

Manager of Record (Patel): Motion/Cayer issue Advisory Letter with strong advisement to MOR as to her responsibility to oversee registration status of all individuals in pharmacy and all operations of pharmacy; step down as Manager of Record for one year; and complete additional two hrs. of continuing education in Law. Second/Berman. All in favor.

Drugstore: Motion/Budish to place Pharmacy on Probationary Status for minimum one year period pursuant to *Agreement* dated February 6, 2006. Second/Barron. All in favor.

Pharmacist (Flynn): Motion/Cayer issue an Advisory Letter, complete two hrs. of continuing education in Medication Error. Second/Berman.

In favor: Cayer, Barron, Budish, Gouveia, Fabiszewski, Accetta, Berman, Opposed: Tocco

Pharmacy Technician (Guzman): Motion/Cayer Tabled. Second/Tocco. All in favor.

9. 11:00 a.m. - Investigative Conference
In the matter of Brooks Pharmacy, 1900 Ocean St., Marshfield, MA 02051 (Pharmacy Registration No. 3121); Thomas C. Shirikjain, R.Ph., (Pharmacist Reg. No. 23554) - Docket Nos. DS-07-047 and PH-07-104

Complaint alleged that on or about February 17, 2007, Shirikjain dispensed Zantac syrup 75mg/5ml rather than Zantac 15mg/5ml as prescribed while employed at Brooks Pharmacy in Marshfield, MA.

Present: Shirikjain, Manager, Steven Horn, R.Ph., Supervisor
CEs: compliant

Motion/Berman to take under advisement. Second/Tocco. All in favor.

After discussion:

Drugstore: Motion/DeVita issue Advisory Letter. Second/Cayer.

All in favor.

Pharmacist: Motion/Cayer issue Advisory Letter; complete additional two hours of continuing education in Law and two hours of continuing education on Medication Errors. Second/Barron.

In favor: Cayer, Barron, Gouveia, Budish, Fabiszewski, Accetta, Berman

Opposed: Tocco, DeVita

10. 11:30 a.m. - Investigative Conference

In the matter of Walgreens Pharmacy, 148 W. Central St., Natick, MA
(Pharmacy Registration No. 1364); Lyanne Le, R.Ph. ("Registrant")
(Pharmacist Registration No. 26755) – Docket Nos. DS-07-062 and
PH-07-117

Complaint alleged that on or about April 27, 2007, Registrant dispensed Nitrofurantoin 100 mg capsules rather than Nitrofurantoin 50 mg capsules as prescribed while employed at Walgreens Pharmacy, Natick, MA

Present: Lyanne Le, R.Ph., Mark Antum, MOR, Carol DeMasi
CEs: compliant

Drugstore: Motion /DeVita issue an Advisory Letter, file USP Medication Error Report Form. Second/ Tocco. All in favor.

Also: request Walgreens to report to Board re: possibility of override report to MOR on weekly basis.

Pharmacist: Motion/Cayer issue an Advisory Letter, complete two hours of continuing education on Medication Errors, file USP Medication Error Report Form. Second/Budish. All in favor.

11. 12:00 p.m. - Investigative Conference

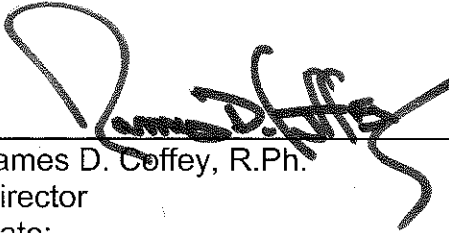
In the matter of Stephen Ciapciak, R.Ph. (Reg.18191) - Docket PH-07-060
Appearance rescheduled to October 23, 2007 meeting

12. New Business

- a) Pharmacist Technician applicant – Hillary Goldblatt
Tabled to October 9, 2007 meeting.
- b) Pharmacist Reciprocal Licensure applicant - Roger R. Provencher
Motion/DeVita to approve application. Second/Budish. All in favor.
- c) NABP District 1 Meeting October 25-27, 2007:
Discussion postponed to October 9, 2007 meeting.

13. 1:00 p.m. – Motion/DeVita to adjourn meeting. Second/Tocco. All in favor.

Respectfully submitted by:



James D. Coffey, R.Ph.
Director
Date:

Reviewed by counsel: November 15, 2007

Draft approved: November 15, 2007

Board approved: November 20, 2007

**BOARD OF REGISTRATION IN PHARMACY
CLOSED SESSION MINUTES
(G.L. c. 112, s. 65C and G.L. c. 30A, s. 11A)
Tuesday September 18, 2007
239 CAUSEWAY STREET
SECOND FLOOR, ROOM 206
BOSTON, MA 02114**

10:45 a.m. - Motion/Cayer to enter into Closed Session (G.L. c. 112, s. 65C and G.L. c. 30A, s. 11A). Second/Pasedis. All in favor.

Board reviewed matters of CVS/pharmacy, 264 E. Main St. Marlboro, MA (Pharmacy Reg. No. 17722), Docket Nos. DS-07-055 and DS-08-009; Paula A. Flynn, R.Ph. (Pharmacist Reg. No. 25064) – Docket No. PH-07-127 and Maya Patel, R.Ph. (Pharmacist Reg. No. 22226) – Docket No. PH-08-005 and Fabiola Guzman (SA-DS-08-005).

Marlborough CVS location was included in February 6, 2006 Agreement. Board considered following factors in reviewing complaint: MOR Patel was MOR prior to and since Agreement date. Systemic changes required by Agreement terms and corporate compliance monitoring (CVS "EVR" (Every Visit Review) process not effective in assuring pharmacy personnel are currently registered or acting in positions in compliance with 247 CMR (including ratios); MOR not performing 247 CMR 6.07 responsibility of active oversight of pharmacy personnel; MOR not able to easily access corporate personnel or other necessary information regarding registration or licensure status of pharmacy personnel; current CVS "tech trainer" for Marlborough (several had acted in this position over the period involved) utilized "own" system to oversee training status of pharmacy technician trainees and technicians – not developed by CVS; failed to include all employees; with no corporate wide monitoring in place. CVS personnel records on "trainee" failed to identify non-registration status, even after the root cause analysis expected to be performed post the error occurred. The MOR's failure to assume responsibility for registration status related to corporate structure; MOR expressed current understanding of ultimate responsibility per 247 CMR 6.07.

Board members agreed that the Pharmacy should be placed on Probationary Status for minimum one year period, per February 6, 2006 Agreement and MOR and verifying pharmacist be issued Advisory letters regarding their conduct.

10:55 a.m. – Motion/Pasedis to exit Closed Session. Second/Berman. All in Favor.